

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

RECEIVED

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of

Computer III Further Remand
Proceedings: Bell Operating Company
Provision of Enhanced Services

CC Docket No. 95-20

DOCKET FILE COPY ORIGINAL

**REPLY COMMENTS OF
COMPAQ COMPUTER CORPORATION**

Compaq Computer Corporation ("Compaq"), by its attorneys, hereby replies to the comments filed in response to the Notice of Proposed Rulemaking in the above-captioned proceeding.¹ Compaq is the largest manufacturer of personal computers and personal computer systems in the world today, with 1994 revenues of \$10.9 billion. Compaq products are frequently used in conjunction with carrier-provided transmission facilities.

Compaq previously has urged the Commission to ensure that its regulations allow competitively provided equipment and services to interconnect to,

¹ Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services, Notice of Proposed Rulemaking, CC Docket No. 95-20, FCC 95-48 (rel. Feb. 21, 1995).

No. of Copies rec'd
151A66DE

0210

and interoperate with, public networks.² In particular, Compaq has noted the important role played by the Commission's network disclosure rules, which require common carriers to disclose information necessary to develop products and services that can interconnect to, and interoperate with, their transmission networks.³

The current rules require all carriers to "disclose . . . all information relating to network design and technical standards and information affecting changes to the telecommunications network which would affect . . . the manner in which customer premises equipment is attached to the interstate network."⁴ As the Commission explained in the CBEMA Order, such disclosure "must be sufficiently broad in scope and defined in detail to permit offerors of CPE . . . to design . . . equipment which will be completely interoperable with the basic network."⁵

In Computer III, the Commission determined that -- because of the absence of competition in the local exchange -- the BOCs should be subject to additional disclosure requirements. The Commission therefore requires the BOCs

² See Comments of Compaq Computer Corporation, Telephone Company-Cable Television Cross-Ownership Rules, Sections 63.54-63.58, CC Docket No. 87-266, at 3-5 (filed March 21, 1995).

³ Id.

⁴ 47 C.F.R. § 64.702(d)(2) (1994).

⁵ Computer and Business Equipment Manufacturers Ass'n, 93 F.C.C.2d 1226, 1238 (1983).

to publicly disclose information about network changes 12 months before the introduction of new services based on those changes. The only exception occurs when the new service can be introduced within less than 12 months of the so-called "make/buy" point,⁶ in which case the disclosure must be made at the make/buy point. In no case, however, can the disclosure be made less than six months before the new service is implemented.⁷ These rules are intended to promote competition in both the customer premises equipment and the enhanced services markets.

Only one commenter, Bell Atlantic, has expressed opposition to the existing network disclosure rules. Bell Atlantic makes two principal arguments in favor of the elimination of these rules. First, it suggests that "[t]he marketplace will . . . ensure sufficient advance disclosure without fixed regulatory require-

⁶ The Commission has defined the "make/buy point" as the point at which "the carrier decides to make for itself, or to procure from an unaffiliated entity, any product the design of which affects or relies on the network interface." Amendment of Section 64.702 of the Commission's Rules and Regulations (Third Computer Inquiry), Phase II Order, 2 FCC Rcd 3072, 3086 (1987), vacated on other grounds sub nom. California v. FCC, 905 F.2d 1217 (9th Cir. 1990).

⁷ See Amendment of Section 64.702 of the Commission's Rules and Regulations (Third Computer Inquiry), Report and Order, 104 F.C.C.2d 958, 1083-84 (1986), vacated on other grounds sub nom. California v. FCC, 905 F.2d 1217 (9th Cir. 1990).

ments."⁸ Second, it contends that advance disclosure is not required because it uses standards developed by industry groups (or Bellcore).⁹

Bell Atlantic's suggestion that disclosure requirements are unnecessary because market forces can be relied on to ensure sufficient disclosure is unsound. The local exchange is not a competitive market. Therefore, market forces cannot be relied upon to provide adequate network disclosure. Moreover, even if the BOCs were subject to competition, the disclosure requirements would remain appropriate. These rules are intended to promote competitive equity by giving all vendors an equal opportunity to produce services and equipment that can interoperate with the carriers' services.

The fact that the BOCs often choose to employ available standards provides no basis for weakening the disclosure rules. Compaq is a strong supporter of the voluntary, industry-led standards process. Indeed, Compaq actively participates in this process. However, the adoption of a voluntary standard does not assure that it will gain acceptance. This is especially true in the local exchange market, where the BOCs retain almost complete power to determine whether a service that incorporates a given standard will be made available. Therefore, it is unrealistic to think that -- merely because a standard has been adopted for a given network service -- independent manufacturers will invest

⁸ Bell Atlantic Comments at 30-31.

⁹ Id.

considerable resources to develop products that can interoperate with that service. It is only after the BOCs have committed themselves to deploying a service that independent manufacturers can be expected to develop interoperable equipment.¹⁰



Rather than dismantling the current network disclosure rules, as Bell Atlantic proposes, the Commission should expand them. In the coming years, promoting interoperable public networks -- whether used for voice, data, or video transport -- will become increasingly important. The common carrier network disclosure rules are a model that should be applied to other public networks, such as cable. This will allow consumers to enjoy the benefits of using a wide range of competitively provided information appliances -- from handsets, to set-top boxes, to personal computers -- in conjunction with these transmission conduits.

¹⁰ ISDN provides a ready example. The standards governing this network technology have been in existence for years. The BOCs, however, have been slow to implement it. Had manufacturers invested substantial sums to develop ISDN-compatible equipment upon adoption of the relevant standards, they would have been straddled with products for which there was no significant domestic market.


CONCLUSION

The Commission's network disclosure rules have played an important role in promoting interoperability within our evolving National Information Infrastructure. Bell Atlantic has provided no basis for the Commission to weaken or abandon these rules. The Commission, therefore, should retain the existing disclosure rules.

Respectfully submitted,



Herbert E. Marks
Jonathan Jacob Nadler



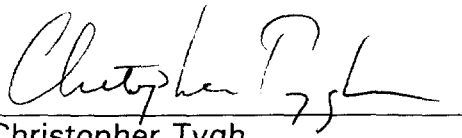
Squire, Sanders & Dempsey
1201 Pennsylvania Avenue N.W.
P.O. Box 407
Washington, D.C. 20044

Counsel for
Compaq Computer Corporation

May 19, 1995

CERTIFICATE OF SERVICE

I, Christopher Tygh, hereby certify that a true and correct copy of the foregoing Reply Comments of Compaq Computer Corporation in CC Docket No. 95-20 was sent by first class mail, postage prepaid, to the following on this the 19th day of May, 1995:


Christopher Tygh

James P. Tuthill
Jeffrey B. Thomas
Pacific Bell & Nevada Bell
140 New Montgomery Street
Room 1522A
San Francisco, CA 94105

Keith J. Epstein
Bruce A. Ramsey
Pacific Bell & Nevada Bell
3401 Crow Canyon Road
Suite 100
San Ramon, CA 94583

James L. Wurtz
Margaret E. Garber
Pacific Bell & Nevada Bell
1275 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Frank Michael Panek
Ameritech
Room 4H84
2000 W. Ameritech Center Drive
Hoffman Estates, IL 60196

Robert M. Lynch
Durward D. Dupre
Michael J. Zpevak
Southwestern Bell Telephone Company
One Bell Center
Suite 3520
St. Louis, MO 63101

Michael E. Glover
Lawrence W. Katz
Bell Atlantic
1320 North Court House Road
Eighth Floor
Arlington, VA 22201

M. Robert Sutherland
A. Kirven Gilbert III
BellSouth Telecommunications, Inc.
4300 Southern Bell Center
675 West Peachtree Street, N.E.
Atlanta, GA 30375

Robert B. McKenna
U S WEST, Inc.
1020 19th Street, N.W.
Suite 700
Washington, D.C. 20036

Edward R. Wholl
Campbell L. Ayling
William J. Balcerski
NYNEX Telephone Companies
1111 Westchester Avenue
White Plains, NY 10604

Mary E. Burgess
New York State Department of Public Service
Three Empire State Plaza
Albany, New York 12223-1350

Maureen O. Helmer
General Counsel
New York State Department
of Public Service
Three Empire State Plaza
Albany, New York 12223

Daniel L. Barenner
Neal M. Goldberg
David L. Nicoll
National Cable Television Assoc.
1724 Massachusetts Avenue, N.W.
Washington, D.C. 20036

Howard J. Symons
Donna N. Lampert
Sara F. Seidman
National Cable Television Assoc.
Mintz, Levin, Cohn, Ferris,
Glovsky and Popeo, P.C.
701 Pennsylvania Avenue, N.W., Ste. 900
Washington, D.C. 20004

Alan J. Gardner
Jerry Yanowitz
Jeffrey Sinsheimer
California Cable Television
Association
4341 Piedmont Avenue
Oakland, CA 94611

Frank W. Lloyd
Donna N. Lampert
Sara F. Seidman
The California Cable Tele. Assoc.
Mintz, Levin, Cohn, Ferris,
Glovsky and Popeo, P.C.
701 Pennsylvania Avenue, N.W. - Suite 900
Washington, D.C. 20004

Robert J. Butler
Paul C. Smith
Association of Telemessaging
Services International, Inc.
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006

Peter A. Rohrbach
Linda L. Oliver
LDDS Communications
Hogan & Hartson
555 15th Street, N.W.
Washington, D.C. 20005

Cheryl L. Parrino, Chairman
Scott A. Neitzel, Commissioner
Public Service Commission of
Wisconsin
610 North Whitney Way
P.O. Box 7854
Madison, WI 53707-7854

Robert J. Butler
Prodigy Services Company
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006

James S. Blaszak
D.E. Boehling
Ad Hoc Telecommunications Users Committee
Levine, Blaszak, Block & Boothby
1300 Connecticut Avenue, N.W.
Suite 500
Washington, D.C. 20036

Richard E. Wiley
Michael Yourshaw
Steven A. Augustino
Newspaper Association of
America
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006

Albert Shuldiner
Information Industry Association
555 New Jersey Avenue, N.W.
Suite 800
Washington, D.C. 20001

Mark C. Rosenblum
John J. Langhauser
Clifford K. Williams
AT&T Corp.
Room 3244J1
295 N. Maple Avenue
Basking Ridge, NJ 07920

C. Donald Berteau
GeoNet Limited, L.P.
Suite 200
3339 Cardinal Drive
Vero Beach, FL 32963

Robert L. Plesser
Julie A. Garcia
Mark J. O'Connor
Commercial Internet Exchange Association
Piper & Marbury
1200 19th Street, N.W.
Seventh Floor
Washington, D.C. 20036

Frank W. Krogh
Donald J. Elardo
MCI Telecommunications Corporation
1801 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

Randolph J. May
Brian T. Ashby
Compuserve Incorporated
Sutherland, Asbill & Brennan
1275 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2404

Joseph P. Markoski
Jonathan Jacob Nadler
Jeffrey A. Campbell
Information Technology Association of America
Squire, Sanders & Dempsey
1201 Pennsylvania Avenue, N.W.
P.O. Box 407
Washington, D.C. 20044